

JUDGE RAMOS

16 CV 1139

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JAMES O'CALLAGHAN,

Plaintiff,

- against -

CITY OF NEW YORK,

Defendant.

**COMPLAINT**

Jury Trial Requested

**Parties in this complaint:**

**Plaintiff:** James G. O'Callaghan  
110 East End Avenue  
New York, NY 10028  
917-838-1476

**Defendants:** Det. Brian O'Leary, 17<sup>th</sup> Precinct  
Sgt. Fox, 17<sup>th</sup> Precinct  
Patrolman Guzik, 17<sup>th</sup> Precinct  
53<sup>rd</sup> Street between 3<sup>rd</sup> and Lexington Ave.  
Manhattan, New York

Zachary W. Carter & Yael Barababay  
Corporation Counsel, 5<sup>th</sup> Floor  
100 Church Street  
Manhattan, New York

FILED  
U.S. DISTRICT COURT  
S.D. OF N.Y.  
FEB 16 AM 9:13

**Basis for Jurisdiction: Federal Questions**

This Federal lawsuit is based on the fact that the Defendants violated my Constitutional rights and civil rights by committing age discrimination. The police violated rules of misconduct and regulations under Federal grants, committing typecasting and racial bigotry, and hiding the identification of a New York City cab driver who was guilty of Class D felony.

**Facts:**

1) On February 19, 2014, at approximately 11:30 A.M. on 39<sup>th</sup> Street between Second Avenue and Third Avenue, I was assaulted by a New York City yellow cab driver. He threw me to the ground and when I made an effort to get to my feet he punched me several times in the face. This felony was witnessed by two (2) people. The cab driver then fled the scene of the crime.

2) The police arrived shortly thereafter. Who called them I have no idea, but one witness not only had all the information, he also had pictures of the incident, and pictures of the cab and the driver who had attacked me. This information was given to Patrolmen Guzik (Report #554) (information that I never received). With the information received by the Patrolman, he told me the driver would be easy to locate. The Fire Department ambulance arrived and bandaged my cuts.

3) Detective Brian O'Leary was assigned to my case. Through a series of texts between O'Leary and myself, O'Leary stated that the felon was arrested for assault on June 7, 2014, and they didn't need me for any identification because he admitted it, end of story. However, almost four (4) months after the crime was committed, no arrest had been made in the case, as demonstrated through my attempts below. (*Exhibits A, B, C*)

**Tried Every Avenue to Obtain Relief**

4) I called the Victims Division at the District Attorney's office (212-335-9040) where I spoke to Ines. She could do nothing without an arrest having been

made in the case. I contacted the Civilian Review Board (Case #2014-0912) and then the Chief of the Department (718-834-3390), but they could offer no help. Internal Affairs (212-741-8401), same thing. Detective Burke (646-610-5430), no help. Tried another number (212-477-7447, Case #3271), another dead end.

5) Then I called the 17<sup>th</sup> Precinct, the place where it all began, but I was stonewalled at every turn; blue wall of silence claims of ignorance of any offense or wrongdoing. Sergeant Fox called me in November of 2014, nine (9) months after the incident, saying they could not contact the witness.

6) The City, starting from the top, protected the Yellow Cab industry against a lawsuit by me. They knew the cab driver had committed a felony by assaulting a senior citizen. At the time, I was driving for Uber, and during that period the Mayor was working against Uber, saying they were causing congestion in NYC traffic, and he tried to restrict their activity. If this incident came out, the administration and its policies would be in trouble, so there was a concerted effort to conceal such events, and I was a victim of this policy.

7) I also contacted the TLC and spoke to Leandra Eustache (212-676-1198, 33 Beaver Street, 19<sup>th</sup> Floor, New York, NY 10004). She told me she would help, but just like the other City agencies, she never called back.

#### **Claims Against the City**

8) After filing a claim against the City, I was told by the clerk that I didn't file the claim within 90 days of the occurrence of the felony. Obviously, she had no idea how long my efforts took to address the incident through other channels.

9) I then filed a Lawsuit Against the City in New York State Supreme Court, sending the Summons on 3/23/2015 (Index # 100523-15).

**Motion Against My Summons**

10) This motion is a dishonest effort by the City to hide the fact that a New York yellow cab driver committed a felony assault against an Uber driver who was a senior citizen. The first lawyer for the City's motion (Yael Burbabay) provided "facts and procedural history" that were completely false.

11) The City deliberately strikes out my date of birth, thus protecting the cab driver from a Class D felony charge (law enacted in 2008) which is punishable by up to seven (7) years in prison with a minimum of one (1) year. Not wanting to receive bad publicity for an attack by a yellow cab driver against a senior citizen Uber driver, the administration completely hid this fact.

**The Answer by Corporation Counsel Zachary W. Carter**

12) This answer is a cover-up, prejudicial, and could be construed as being based on racial and age discrimination. Mr. Carter knows my age and what I look like. His history is composed of a form letter that discriminates against senior citizens and is prejudicial, assuming I should know how to protect myself against attacks by cab drivers. The counsel managed to disconnect Det. O'Leary's phone number, who knows the name and age of the assailant. This motion violates the very foundation of the rights under which we live.

**Injuries**

13) I suffer from painful headaches and constant hand shaking. Dr. Steig (neurosurgeon in chief of New York Presbyterian Hospital and doctor in charge of

concussion for the New York Giants) said I suffered a severe concussion in the attack. The medical world has no idea what effect that will have on my life.

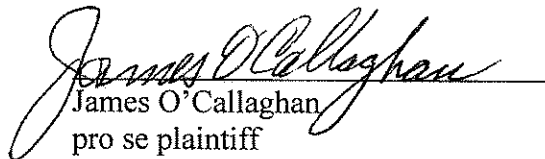
14) Recently, I had my eyes checked to see what was causing these painful headaches. Dr. Gerald Jay Shepps (ophthalmologist retained by both the New York City Police and Fire Departments) concluded that my eyesight is perfect and the constant headache could only be caused by the concussion I experienced as a result of the assault by the cab driver.

**Relief :**

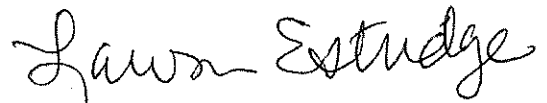
I am seeking monetary compensation in the sum of 20 million dollars. The thought of going through the rest of my life with these agonizing headaches and constantly shaking is not one that I relish. I believe the amount is justified.

I declare under penalty of perjury that the foregoing is true and correct

Signed this 22<sup>nd</sup> day of January, 2016.


  
James O'Callaghan  
pro se plaintiff  
110 East End Avenue  
Apartment 10-K  
New York, NY 10028  
Phone: 917-838-1476

LAWSON ESTRIDGE, NOTARY PUBLIC  
STATE OF NEW YORK  
No: 01ES4900397  
QUALIFIED IN QUEENS COUNTY  
CERTIFICATE FILED IN N.Y. COUNTY  
COMMISSION EXPIRES 01/11/2018



●●●●○ AT&T LTE

1:57 PM

✱ 87% 

◀ Back (2) 1 (516) 316-6621

Contact

Text Message

Mar 17, 2014, 11:21 AM

Brian I am going to have dinner with my daughters so I won't be able to join you maybe at the end of the week thanks Jim OCallaghan

That's fine Jim. Happy St. Patrick's Day!!!

You to , will be in touch

Mar 20, 2014, 1:16 PM

Any luck yet

Waiting to hear from TLC.

Mar 20, 2014, 5:15 PM




Text Message

Send



●●●●○ AT&T LTE

1:57 PM

✱ 87% 

◀ Back (2) **1 (516) 316-6621**

Contact

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Mar 20, 2014, 5:15 PM

Ok let me know when you  
are in the city

Mar 20, 2014, 6:39 PM

Yes sir

Apr 1, 2014, 1:44 PM

Have you heard anything  
from the TLC

Apr 2, 2014, 3:37 PM

Sorry, I'm on vacation.  
Visiting family in Texas. I'll  
be back on Monday, April  
7th.

No problem have a great  
time




Text Message

Send

●●●●○ AT&T LTE

1:57 PM

87% 

◀ Back (2) 1 (516) 316-6621 Contact

Back from vacation

Who is this?

Jim ocallaghan

Apr 9, 2014, 4:05 PM

Sorry Jim, yes I am back from vacation.

No problems just keep me up thanks

You got it.

Jun 2, 2014, 10:48 AM

Brian did you ever get the Cab drivers name or the company. He represented





Text Message

Send



●●●○○ AT&amp;T LTE

1:57 PM

✱ 87%  Back (2) 1 (516) 316-6621

Contact

I spoke with a TLC Investigator. The tracking devices that are used by them for the yellow cabs, do not place the cab ID # you gave me at the scene. Are you positive with plate number you listed in the report?

Brian PO Guzik had all the information , I never gave you any information , the Cab # and the Plate # also the name of the witness and his phone # I guess I will have to seek legal help to get any were

The cab # and plate # is the same. I'll get back to you.




Text Message

Send

●●●○○ AT&T LTE

1:57 PM

✆ 86% 

◀ Back (2) **1 (516) 316-6621**

Contact

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Jun 6, 2014, 10:14 AM

Since I have not heard from you I assume you don't care you have left me with no choice but to contact the NYACLU to protect my rights

Jun 7, 2014, 8:27 PM

What are you talking about?

What's the NYACLU?

You have not helped me one bit New York American civil liberty union

What are you looking for?  
An arrest was made, end of story.




Text Message

Send



●●●●○ AT&T LTE

1:57 PM

✱ 86% 

◀ Back (2) 1 (516) 316-6621 Contact

What arrest I was never  
told about an arrest

Arrested for Assault.

When I'm the guy that was  
assaulted

He admitted it, we didn't  
need you for any  
identification purposes.

No one tells me I don't  
know anything his name  
who he works for nothing  
especially the cab  
company

Jun 24, 2014, 11:59 AM

I just spoke with the  
victims division at the D.




Text Message

Send

●●●●○ AT&T LTE

1:57 PM

✱ 86% 

◀ Back (2) 1 (516) 316-6621

Contact

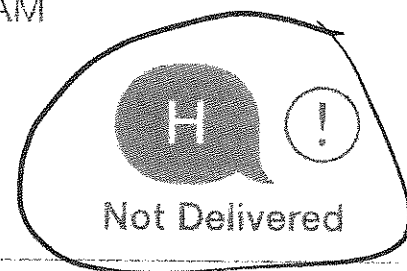
Identification purposes.

No one tells me I don't know anything his name who he works for nothing especially the cab company

Jun 24, 2014, 11:59 AM

I just spoke with the victims division at the D. A. Office they would like the arrest record number and the name of the assailant and any other information that you may have. Thanks

Mon, Sep 28, 7:02 AM



Text Message

Send





LOST PROPERTY  
PD 542-061 (Rev. 09-06)

# Do Not Detach — Submit In Duplicate

Complainant/Victims will be sent verification free of charge, other applicants must send a non-refundable processing fee of \$15.00 (Check or Money Order — NO CASH) payable to the NYC Police Department with each application. All applicants must enclose a stamped self-addressed envelope. Please mail requests to: New York City Police Department, Criminal Records Section (Verification Unit), 1 Police Plaza, Room 300, New York, NY 10038.

* Complaint Number <b>554</b>	Precinct of Report <b>17</b>	FOR USE BY CRIMINAL RECORDS SECTION
Mail Record To: <b>JAMES O'CALLAGHAN</b> (Print or Type) <b>2851 SALT POINT TURNPIKE</b> <b>CLINTON CORNERS NY 12514</b>		CRIMINAL RECORDS SECTION 003810

1. Exact location where crime / loss took place <b>39<sup>ST</sup> BETWEEN 2<sup>ND</sup> &amp; 3<sup>RD</sup> AVE NYC</b>		Precinct of Occurrence <b>17</b>
2. Date reported to Police <b>2/19/2014</b>	Time (if known) <b>12<sup>24</sup> 1215</b>	This report concerns: <input checked="" type="checkbox"/> Crime <input type="checkbox"/> Lost Property
3. Full name and address of complainant/victim as reported to Police Department <b>JAMES O'CALLAGHAN 2851 SALT POINT TURNPIKE CLINTON CORNERS NY 12514</b>		
Date and Time of Crime / Loss of Property (if different than date of report) <b>2/19/2014</b>	TIME <b>12<sup>00</sup> 1205</b>	Name of officer who received your report, if known. <b>PO 6421K</b>

Any additional information which may aid in searching for your record

**THE DETECTIVE ASSIGNED TO THIS CASE TOLD ME THEY LOCK UP THE AREA**

\* INSTRUCTIONS: In order to find this record you MUST furnish all information requested above, particularly the complaint number and precinct of record (Occurrence). Verification of your request cannot be made without this information. The complaint number may be obtained by calling the precinct or detective squad concerned during the hours of 9 a.m. to 5 p.m. Do Not Detach — Submit In Duplicate.

Applicant's Signature <b>James O'Callaghan</b>	Date <b>2/24/2014</b>	Name and address of insurance company	Date
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## FOR POLICE DEPARTMENT USE ONLY

FOLLOWING IS A VERIFICATION OF THE ABOVE REQUEST

MOTOR VEHICLES	<b>2000 HARDTOP 4DR YELLOW 2G68A/NY</b>
CURRENCY	
JEWELRY	
FURS — CLOTHING	
FIREARMS	
OFFICE EQUIPMENT	
T.V., R ADIOS, CAMERAS, ETC.	
HOUSEHOLD GOODS	
CONSUMABLE GOODS	
MISCELLANEOUS	

BRIEFLY DESCRIBE MANNER OF CRIME / LOSS OF PROPERTY

ASSAULT/VICTIM STATES THAT THE PERSON AND

VICTIM DID GET INTO VERBAL ARGUMENT THEN DID PUSH VICTIM TO

GROUND CAUSING INJURY TO HIS RIGHT HAND. PERSON THEN DID FLEE SCENE



3. Full name and address of complainant/ as reported to Police Department

JAMES O'CALLAGHAN 2851 SEAPoint Tpk Clinton Corners NY 12574

Date and Time of Crime /  
Loss of Property (if different  
than date of report)

DATE

TIME

Name of officer who received your report, if known.

2/19/2014

17:00  
1205

PO G421K

14

SECTION

Any additional information which may aid in searching for your record

THE DETECTIVE ASSIGNED TO THIS CASE TOLD ME THEY LOCK UP THE

**INSTRUCTIONS:** In order to find this record you **MUST** furnish all information requested above, particularly the complaint number and precinct of record (Occurrence). Verification of your request cannot be made without this information. The complaint number may be obtained by calling the precinct or detective squad concerned during the hours of 9 a.m. to 5 p.m. **Do Not Detach — Submit in Duplicate.**

Applicant's Signature

James O'Callaghan

Date

2/19/2014

Name and address of insurance company

Date

## FOR POLICE DEPARTMENT USE ONLY

FOLLOWING IS A VERIFICATION OF THE ABOVE REQUEST

MOTOR VEHICLES

2000 HARDTOP 4DR YELLOW 2G68A/NY

CURRENCY

JEWELRY

FURS — CLOTHING

FIREARMS

OFFICE EQUIPMENT

T.V., R ADIOS, CAMERAS, ETC.

HOUSEHOLD GOODS

CONSUMABLE GOODS

MISCELLANEOUS

BRIEFLY DESCRIBE MANNER OF CRIME / LOSS OF PROPERTY

ASSAULT/VICTIM STATES THAT THE PERSON AND

VICTIM DID GET INTO VERBAL ARGUMENT. PERSON THEN DID PUSH VICTIM TO

GROUND CAUSING INJURY TO HIS RIGHT AND LEFT HAND. PERSON THEN DID FLEE SCENE

IN A YELLOW TAXI NY PLATE# 2G68A.

Alarm No.

Report verified by(print title, name/sign)

PAA PRINGLE

Date

07/15/14

10/1/14